DOCUMENT RESUME

ED 129 689 SO 009 469

AUTHOR Bassiouni, M. Cherif
TITLE Crimes and Criminal Justice, Students Book. The Lavinia and Charles P. Schwartz Citizenship Project.
INSTITUTION Chicago Univ., Ill. Graduate School of Education.
PUB DATE 71
NOTE 38p.; For related documents, see SO 009 470-474

EDRS PRICE MF-$0.83 HC-$2.06 Plus Postage.
DESCRIPTORS American Government (Course); *Citizenship; *Civics; Civil Rights; Constitutional Law; Court Litigation; *Crime; Criminal Law; *Delinquency; *Due Process; Juvenile Courts; *Law Instruction; Secondary Education; Social Studies

ABSTRACT

This curriculum unit for citizenship education describes the due process of law as specified in the Constitution, interpreted by the courts, and evolved by practical experience. Its purpose is to inform high school students of their rights so that they may participate more effectively in the U.S. governmental system. It is hoped that the unit helps students determine the legal rights of citizens and law-enforcement officials. Three sections comprise the unit. Section one deals with what a crime is, including the origins of law, how law protects man, how laws protect everyone, and what is punishment for crimes. The second section, about what happens when a crime is committed, discusses arrest, probable cause, search warrants, searches, evidence, wire tapping, interrogations and confessions, frisking, personal freedom and rights, bail, prosecution, indictment, preliminary hearing, arraignment, trial, jury, counsel, and appeal. The third section on juvenile law offers information on who are juveniles, juvenile delinquency, noncriminal truancy, criminal delinquency, arrest, juvenile officers, investigation, detention, delinquency petition, and court hearing. This last section is especially pertinent to students at a time when they are becoming increasingly informed and active in society. (Author/ND)

****
* Documents acquired by ERIC include many informal unpublished *
* materials not available from other sources. ERIC makes every effort *
* to obtain the best copy available. Nevertheless, items of marginal *
* reproducibility are often encountered and this affects the quality *
* of the microfiche and hardcopy reproductions ERIC makes available *
* via the ERIC Document Reproduction Service (EDRS). EDRS is not *
* responsible for the quality of the original document. Reproductions *
* supplied by EDRS are the best that can be made from the original. *
****

ED129689

STUDENTS BOOK

U.S. DEPARTMENT OF HEALTH, EDUCATION & WELFARE
NATIONAL INSTITUTE OF EDUCATION
THIS DOCUMENT HAS BEEN REPRODUCED EXACTLY AS RECEIVED FROM THE PERSON OR ORGANIZATION ORIGINATING IT. POINTS OF VIEW OR OPINIONS STATED DO NOT NECESSARILY REPRESENT OFFICIAL NATIONAL INSTITUTE OF EDUCATION POSITION OR POLICY.

PERMISSION TO REPRODUCE THIS COPYRIGHTED MATERIAL HAS BEEN GRANTED BY
Mark M. Krug
TO ERIC AND ORGANIZATIONS OPERATING UNDER AGREEMENTS WITH THE NATIONAL INSTITUTE OF EDUCATION. FURTHER REPRODUCTION OUTSIDE THE ERIC SYSTEM REQUIRES PERMISSION OF THE COPYRIGHT OWNER.

CRIMES AND CRIMINAL JUSTICE

SO 009 469

by

M. Cherif Bassiouni

THE UNIVERSITY OF CHICAGO
THE GRADUATE SCHOOL OF EDUCATION

THE LAVINIA AND CHARLES P. SCHWARTZ CITIZENSHIP PROJECT

CRIMES AND CRIMINAL JUSTICE

by
M. Cherif Bassiouni

Dr. Mark M. Krug, Editor

Copyright by The University of Chicago, 1971.

INTRODUCTION

This is the third unit in the series of civic education materials published by the Lavinia and Charles Schwartz Citizenship Project.

The legal rights of citizens and law-enforcement officials have been the subject of considerable controversy in recent years. The executive, legislative, and judicial branches of government have attempted to define these rights in a way that will provide justice for all people.

Crimes and Criminal Justice describes the due process of law specified in the Constitution, interpreted by the Courts, and evolved by practical experience. Its purpose is to inform citizens of their rights so that they may participate more effectively in our governmental system.

A section of the unit deals with juvenile law and the relation of youth to our legal system. This emphasis is especially appropriate at a time when young people are becoming increasingly informed and active.

It is our hope that students will find this booklet an instructive guide to a consideration of these vital issues.

Mark M. Krug
Professor of Education in History

ADVISORY COMMITTEE: SCHWARTZ CITIZENSHIP PROJECT

Robert Ahrens, Director, Division for Senior Citizens, Dept. of Human Resources
C. Arnold Anderson, Professor of Education and Sociology
M. Cherif Bassiouni, Professor of Law, De Paul University
John Hope Franklin, Professor of History
John Gearon, Curriculum Supervisor, Board of Education
Geoffrey C. Hazard, Jr., Professor of Law
Honorable Gene Hoffman, Representative, Illinois State Assembly
Reuben A. Kessel, Professor, Graduate School of Business
Arthur Mann, Professor of History
Joseph T. Meek, President, Illinois Retail Merchants Association
Philip Montag, Chairman, Social Studies Department, Laboratory School
Paul Peterson, Assistant Professor of Education
William Rader, Professor of Education, Northeastern Illinois State College
Kevin Ryan, Professor of Education
Jerome Sachs, President, Northeastern Illinois State College
Charles P. Schwartz, Attorney-at-Law
Paul Simon, Lieutenant Governor, State of Illinois
J. Alan Thomas, Dean, Graduate School of Education

Mark M. Krug, Director. Professor of Education in History
Paul F. Kleine, Assistant Director. Assistant Professor of Educational Psychology
Mrs. Maureen Sheehy, Executive Secretary

TABLE OF CONTENTS

	Page
WHAT IS A CRIME?	1
The Origins of Law	2
How Does Law Protect Man?	2
Laws Protect Everyone	3
Punishment for Crimes	3
WHAT HAPPENS WHEN A CRIME IS COMMITTED?	4
Constitutional Limitations on Arrest, Search and Seizure	5
What Is Reasonable and What Is Unreasonable?	5
Probable Cause	6
Search Warrants	7
Issueance of Search Warrants	7
How to Make the Search or the Arrest	8
Obtaining Evidence of a Crime and Individual Rights	8
Eavesdropping and Wire-Tapping	9
Do You Agree?	10
Police Interrogations and Confessions	11
The Bill of Rights and "Due Process" of Law	12
Questioning People on the Street: Stop and Frisk	14
Stopping and Searching A Car	14
The Relationship Between A Warrant and the Evidence Sought	15
Arrests and Restrictions on Personal Freedom	15
What Happens After Arrest?	16
Bail	17
Beginning of Prosecution	18
The Grand Jury and Indictment	19
Differences Between An Arrest and Search Warrant	19
The Preliminary Hearing	20
The Arraignment	20
The Trial	20
The Jury	21
The Right to Counsel	21
The Appeal	22
JUVENILE LAW	23
Juveniles	23
Juvenile Delinquency	23
Non-Criminal Truancy	24
Criminal Delinquency	25
The Arrest	25
The Juvenile Officer	26
Investigation	27
Detention	27
A Delinquency Petition	28
The Court Hearing	29
Conclusion	32

CRIMES AND CRIMINAL JUSTICE

by

M. Cherif Bassiouni*

This unit will deal with two basic questions: (1) What is a crime? and (2) What happens when a crime is committed?

WHAT IS A CRIME?

A crime is a personal action which the law forbids and makes punishable with a fine and/or imprisonment. Everyone has done things in his life that have met with the disapproval of people in society, but all of these actions are not necessarily crimes. What makes a crime different from other kinds of personal actions? When you have committed a crime, you have done that which will damage somebody, or something, directly or indirectly. It also means that the people in the community have an opinion about the seriousness of what you did. The idea that your actions have hurt everyone in some way is also an important point to understand about crime. Everybody knows of things which have been done that have been called crimes: such as robberies or murders. You also know that these crimes have harmed the people involved, both the victim and the person who did it; but, did you realize that a crime committed by one individual also hurts all of society?

Suppose you lived in a world without rules of behavior of any sort. If everyone could do exactly as he pleased, you would be afraid to walk out of your front door in the morning. In fact, you might not even have a front door to use. If your next door neighbor was beaten or robbed and there was no way for anyone to prevent its happening again, then you might well be the next victim. Living with the idea that you might be robbed or beaten makes you afraid. This fear may make you unable

---

*Professor of Law, De Paul University College of Law, A.B., LL.B., J.D., LL.M.; Member Illinois and D.C. Bars; Author, Criminal Law and Its Processes (Thomas, 1969).

to do anything at all. Now suppose all the people in the world were this frightened. Do you see how everyone would be hurt by the person who committed a crime?

The Origins of Law

It is because of this problem that rules for behavior have come into being. When man began his life on earth, he had few, if any, companions. He survived without laws as we know them today because it was all he could do just to exist in this world. But, man was basically a social creature. He realized that he needed other people to help him accomplish his work. Gradually, societies of people living and working together were formed. These societies realized that they needed some code or law which would guide their actions and which would protect the members of the society from each other and from outside intruders. And so, laws were born.

How Does Law Protect Man?

At this point a question may arise as to how a law governs man, and what man can accomplish through laws. Basically the only way in which laws can express and protect people is through controlling every person's behavior. For example, in an argument, one man hits another and injures him. The injured man needs and wants protection from his assailant. He is protected by the law which says that one man is not allowed to injure another man. The law, therefore, attempts to control one man's behavior, by telling him that he cannot injure another man. The law cannot stop him from wanting to act, it can only prevent his actually doing it. In other words, the law cannot enter a man's mind and tell him what he can or cannot think; but it can direct his behavior and tell him what he may or may not do.

Because the law can control only a person's behavior, we must decide exactly what behavior is controlled. If you will notice in the example given, the law says that one man may not injure another man. Therefore, the law covers a very broad area of behavior. The law must state that no man can hit another man on any part of his body in such a way that it will seriously hurt or disable him. In this way, the law can adequately cover a person's specific need for protection.

Laws Protect Everyone

Now we have another problem. If one man has the right to protection, does the same right apply to others? Naturally, it should. A law ought not to protect certain people and ignore others. The law must protect the rights of the greatest number of people. Unfortunately, however, there are difficulties involved in the application of this principle.

The basic rule may be the same for all people--but individuals may differ in the meaning that they give to the rule. If each sees it his own way, the rule is not actually the same for all of them.

Some way had to be found to make the rule the same for all of the people. This was done by having the leaders in the community come together to make the rules more definite. These new rules were called laws and were meant to be for everyone living within a certain area. If the rules, or laws, were to be the same for all of the people, assuming that the people were told what these laws were, then there could be no disagreement as to what the laws meant. For the person who was afraid it meant that he could be less afraid because one neighbor would have to act just like another when they got into an argument. He would no longer have to worry that the neighbor who thought that any fighting short of killing was all right would attack him.

Punishment for Crimes

We have seen how the law expresses two purposes: (1) it serves the needs of the people by protecting them; and (2) it sets certain standards of behavior by which all the members of society live.

The majority of people obey laws simply because they realize that laws are made for their benefit and it would be against their interests to disobey them. But, unfortunately, there is a minority of people who, for one reason or another, break the law. For these people who break the law, the law takes on an additional purpose--punishment. However, punishment is not the main purpose of law. The law punishes violators only as a last resort--only if a person refuses to accept and live by the law.

The punishment serves two purposes. First of all, if the person who didn't obey the law is punished, he might not do it again. Secondly, the people, knowing

the law-breakers are punished, may have more faith in the law. Punishment of the person who violates the law may create a more widespread feeling of security among all citizens. Before laws were established each person had to care for himself. He had to defend himself against an attacker without help. When laws were passed, society became a safe place to live in. An individual no longer had to fend for himself alone against the world.

In early times the law was harsh. Little distinction was made between serious mistakes and violations that were less serious. It was not until modern times that the leaders of a community, those who wrote the laws, realized that the punishment should be in proportion to the seriousness of the crime committed. This idea, that the punishment must equal the seriousness of the act has protected all of the people.

The way in which a person receives punishment for committing a crime is a long process today. There are many, many reasons for this. To see how it works and why, let's start with a particular crime being committed.

WHAT HAPPENS WHEN A CRIME IS COMMITTED?

Let's suppose someone breaks into a jewelry store after it has closed for the night. When something like this happens, there are many ways in which the information becomes known to the police. Some person walking or living in the area may see the crime and report it. There is also a possibility that a police officer was present. Sometimes, the person who did it may turn himself in, or the store owner may report it the next day. If, however, the person does not turn himself in, it is up to the police to find him. When the police don't know who they are seeking, they begin an investigation. An investigation means that the police search for clues as to who committed the crime. They talk to people in the neighborhood to find out if anyone saw what happened. They also examine the store to see what, if anything, was taken. The thief may have left a clue--a glove, a fingerprint, or a tool. People whom the police suspect are questioned. Eventually, the police may learn the identity of the person for whom they are looking. When this occurs, of course, it is up to the police to locate and arrest him.

Constitutional Limitations on Arrest, Search and Seizure

The Bill of Rights of the United States says that people are to be protected by the law from unlawful actions by anyone, including the police. For example, the police have to obey certain rules when they are searching for clues to a crime. If the police were not bound by these rules, then they could search anyone anywhere they please and pick on anything which looked the least bit suspicious. These rules are not set down exactly. Rather, the Constitution says generally what may not be done to people, and the courts build the rules around that. For example, the Fourth Amendment to the Constitution says that people have a right to be secure in their persons and in their property from "unreasonable searches." The main problem here is the word "unreasonable." Let's consider again the case of our jewelry store and see what kind of search would be unreasonable.

What Is Reasonable and What Is Unreasonable?

Suppose you accompanied the police officer on this investigation. Where would you want to look? Of course, you would go into the store and look around. You would also probably look outside, both back and front. But, would you look into the building next door? The answer to that depends on the situation. This is where the criterion of reasonableness comes in.

If the police officer is following the person he suspects has committed the crime, he may search anywhere that person might be or might have gone. But, what happens if, as in most cases, the police come after the crime has been committed and the person who did it has already escaped. Suppose the building next door to the jewelry store is an apartment building or a house. You don't really think the thief went in there but you want to check it anyway. You go up to the door and knock. Remember, it's night time. Someone answers but refuses to let you look around. Do you just push past the person and search anyway? Remember, the Fourth Amendment makes it clear that people have a right to be secure in both their persons and their property. Is the person who answered the door being given those rights if you just push him out of the way and go on with your search?

Clearly, this person's rights are not being protected if you go ahead without his permission. The law will not allow you or the police to violate those rights.

Now, let's add to the problem. When you went to the door, you really didn't think the thief had gone there. However, since you have pushed your way in and are looking around, you now find a watch with the price tag still on it. The tag shows that it came from the store where the theft occurred. You think it was part of the jewelry that was taken. You pick it up and take it with you. Does the fact that you found something make the search reasonable? Can part of a search be reasonable and another part be unreasonable? The law answers no to both questions.

Through the courts, the law has said that if the search was unreasonable from the start, finding an important clue cannot make it reasonable. The clue which you have found cannot help you to prove your case, because to get it you had to violate a civil right. This is an important point to think about. If we consider the situation with the watch and add some facts to it, you will see why. Suppose the man in whose home you found the watch tells you that he bought it at the store. You don't believe him and ask to see some proof like a receipt. What happens if he can't find one? If he really did buy the watch and isn't able to prove it, and you are allowed to use this watch as a clue, you might be accusing an innocent man of something he didn't do. If the police, or you, were allowed to take anything that looked suspicious, there would be no innocent people in the country until the police proved them so. And in this country people are innocent until proven guilty, not vice-versa.

There are, however, times when a search is necessary and reasonable, and that is when there is "probable cause."

Probable Cause

"Probable cause" is reasonable grounds to believe that a crime has been, is being, or will be committed. It is measured according to what the ordinary reasonable person would believe in the same situation. "Probable cause" means that the police have reasonable grounds to believe the suspect is connected to the crime by some factual evidence. The law doesn't want any guilty person to go free. So, it has provided a way for the police to do their job in spite of opposition from the person whose property they want to search.

Search Warrants

A warrant is an order by a judge which commands the police to arrest a person or to search a particular location for evidence and clues of the crime. How the officer obtains this warrant is important to us here. If we change the facts of the theft again, we can see why.

Issuance of Search Warrants

The Fourth Amendment provides that there must be probable cause for a warrant to be issued by the court. The judge is the one who must determine that probable cause exists. The judge must know from the facts recited in the warrant what is to be searched and what is to be seized. The police officer desiring the warrant must sign an affidavit to the effect that the reasons which he sets down on paper are true to the best of his knowledge. Now, let's suppose that someone robbed the jewelry store during the day and there is reason to believe that the thief went to the building next door, but the owner refuses to let you in. What do you do now? Assuming, of course, that you are not directly following the thief from the store, you know that if you go ahead and search without permission, anything you find will be of no help to you because the search would be violating the owner's civil rights. This is the time to obtain a warrant. You don't think the thief is still in the building and you have watched to see what is happening there from the outside (not peeking through the windows). When you think you have sufficient reason to believe that stolen property is at a certain location, you write these reasons in an affidavit and also state the building to be searched and items to be seized. You then take the document to a judge who makes you swear that it is true. He decides on the basis of what you have said and written if the reasons that you give are enough to allow a warrant. If he decides that they are, he O.K.'s the paper by signing it. Now you can go ahead with your search.

The judge's duty is to protect the citizens and make sure that they are not harrassed. There is, however, an important point about a search warrant which we have not discussed. Now that you have this piece of paper in your hand how long can you wait before you use it? May you wait as long as you want? Think about what might happen if you were allowed to wait until you wanted to use your warrant. If the person whose house you wanted to search was really not guilty of a crime, then you could just hold on to the warrant and wait until he did something illegal.

Then you would get him. The person would be unable to do anything at all because he would always be afraid that you would be after him. This may be a nice way to get even with your enemies but it is not the right way to do things in a country where everyone is believed to be innocent until the law proves him guilty. To prevent this from happening, the law puts a time limit on the use of a warrant. There are also limits on the time of day in which a warrant may be used. A search warrant is good for 96 hours in Illinois (similar rules exist in other states), and generally must be used during the day. Of course, if there is a special reason why the police want to make a search at night, they can write the reason on the warrant. If the judge thinks it is a good reason, he will O.K. it.

How to Make the Search or the Arrest

The Constitution requires that even if an officer makes a valid arrest or search based on probable cause or reasonable belief, there is another condition: The arrest and the search must be done in a reasonable manner. The officers have a right to use force, but it must be reasonable, otherwise it is unlawful. How does the Constitution protect us from unreasonable conduct? says that any evidence so obtained may not be used against the person. That means that the officers cannot benefit from any unlawful conduct. It would violate the Constitutional principle of "due process."

Searching a building or some other object like a car is not the only way that the police find clues about a crime. Science has given the police many new tools to use. Some of these tools are used as part of the general search and some are used separately. First we'll look at the general search.

Obtaining Evidence of a Crime
and Individual Rights

Whenever a serious crime has been committed, such as the jewelry store robbery, the police use special techniques to find the clues they need. They may look for fingerprints. This is really a very simple and effective thing to do. Whenever you touch something with your bare hands, a little oil is left on the object. This substance carries the same pattern as the skin on your fingers. The police spread a powder over the object which has been touched. This powder is very similar to chalk dust and sticks to the spots with oil on them. This makes the fingerprints

about tape recording or hidden microphones. However, even at that time there were ways to find secret information about people's private lives. Many of these ways were unjust. The authors of the Constitution wanted to guard citizens against abuse and protect them in the future. Of course, they couldn't name each of these ways so they tried to protect the people by saying what could not be done to them. It is because of this type of protection that we have the Fourth Amendment and the other parts of the Bill of Rights. Earlier we discussed the right of everyone to be secure in their property and their person from unreasonable searches. Don't you think that this very idea should apply to what goes on in a man's mind?

There is another amendment besides the Fourth which deals with this very problem. That is the Fifth Amendment which says that "no person . . . shall be compelled in any criminal case to be a witness against himself." This means, basically, that a man cannot be forced into confessing that he did something wrong. The idea of force is important here because force is more than taking a club and beating someone over the head. Force, in this case, can be any technique that makes a person say what he does not want or intend to say.

Do You Agree?

Now, let's see how the Fifth Amendment applies to wire-tapping, recording, and other means of listening to telephone conversations. If you don't know that you are being recorded, you may say some things you wouldn't ordinarily say. Because the Fifth Amendment gives the kind of protection that it does, the conversation of a person who is not aware that someone else is listening to him cannot be used as evidence. This is not meant to say that the police may never use this tool at all. It means only that they must obtain warrants to do this in the same way that they must obtain a warrant to search a house. These warrants for taping and wire-tapping are given out under time limits, the same as permits to search a building, but they generally last longer than the ninety-six hours of regular search warrants. The reason for this is that particular information may not be given all at one time, but may have to be pieced together from bits and snatches gathered over a long period of time.

There is another, very serious danger against which the people may be protected in the use of tape recorded conversations. This problem comes from the type of machinery used in recording. It is very easy to make a record. It is very easy to

show up more clearly, much like a negative from a photograph. After the prints show up, the police either photograph the object or lift off the prints with tape. These fingerprints are important because each person has a skin pattern different from that of any other person. Police departments all over the country keep a record of fingerprints of criminals. They compare the prints found at the scene of the crime with those on file. If those found at the scene of the crime are the same as the ones in the file, the police know who did it and can arrest the suspect.

Besides fingerprints there are other tools that are part of the search. If anyone has been hurt in the crime the police will take samples of all the blood that they find and photographs of the scene as they find it to try to figure out at least how it happened, if not why. These are just a few examples of what goes on during the search, itself. But not all types of searches have to be the kind where the police go to a place and look around. There are some types of searches which, if done like the ordinary search, might not result in any clues. These are secret searches.

The secret search may be listening in on other people's conversations on purpose. This search attempts to discover what goes on in a person's private life.

Eavesdropping and Wire-Tapping

There are several problems which go along with this kind of search. The first concerns how the search is done. You are all familiar with a tape recorder. You know that if you speak into the microphone whatever you say will be recorded as the tape picks it up. What happens if you are talking to someone and you don't know that your voice is being recorded by a hidden microphone? You may say something that you wouldn't have said if you knew about the recorder. Now suppose the person who has the recorder is a policeman. If he were allowed to use the tape recorder as often as he wished and to record everything that was said to him, sooner or later he would be able to find something wrong with just about everybody. This is a similar problem to the one we face in the searching of a house. This is why there are warrants. This problem becomes even more serious when you are talking to someone, and a third person, someone who is not even a part of your conversation, records what you are saying.

What kind of protection does the law give the people against the misuse of such tools? Certainly, at the time the Constitution was written its authors did not know

erase the tape or just a part of it. If the police were allowed to play around with the tapes, they could make a confession where there actually was none. This is putting words into someone's mouth. Anybody could be guilty of anything. This is one of the reasons why a warrant is necessary before a recording can be made. This allows someone to watch the police and see that they do not do anything that is unlawful.

Police Interrogations and Confessions

Searches, whether of buildings or of conversations, however, are not the only major tools the police have in solving crimes. Earlier, when we talked about the jewelry store, we mentioned that part of the police officer's job was to question people about the theft. Let's see what happens when he does. Basically, there are two types of questioning that the officer does. The first type is a very routine kind such as talking to people who live or work near the scene of the crime. At this point the officer wants to find out only what happened. He is looking for leads or clues which help in his investigation. At first, the officer doesn't suspect anyone in particular. It is when he is doing this first questioning that he thinks about who might have done it. When the officer thinks that a person knows more than he is telling, he takes him down to the district station for additional questioning.

Whenever the police take someone to the station house for questioning, they have to follow the rules set down by the Fifth Amendment. In other words, they cannot force the person to confess to committing a crime. Obviously, then, the police are not allowed to beat up the person to make him talk. It doesn't matter whether the person really did it or no . The law also feels that there are other kinds of force which are just as cruel as a beating. What do you think of a situation where a suspect is forced to sit in a chair for several hours, even days, without being given any food or without being allowed to go to the bathroom or to sleep? What if the police told the person that he could have some food or sleep only if he confessed to the crime? Most people are not strong enough to take this kind of torture for very long. If they got hungry or tired enough, they may crack. Because of this possibility the courts have decided that when the police use tactics like this, they are forcing the person to confess. In such a case, even if the person really did commit the crime, his confession cannot be used against him because the Fifth Amendment protects him. To guarantee this, the Supreme Court of the United

States has said that whenever a man is arrested he must be told that: (1) He has a right to remain silent; (2) Anything he says could be used against him; (3) He has a right to talk to his attorney and have him present during any questioning; and (4) If he cannot afford an attorney, he will be given free legal services.

The Bill of Rights and "Due Process" of Law

The rights which are given to the people by the first ten amendments to the Constitution, or the Bill of Rights as it is called, were originally meant to protect citizens against abuse of their rights by the Federal government. At first, the state governments and city police departments did not have to obey these amendments. Because of this another amendment was added to the Constitution. This was the Fourteenth Amendment which instructed the states to abide by the Bill of Rights.

Because the Fourteenth Amendment makes the rights of the Fifth Amendment available to a suspect in a criminal case, the police have a duty to protect that person. After all, if we look at the the problem just from the viewpoint of numbers, what chance to protect himself does the person who is being questioned have against the entire police department? However, the police department has the job of finding the criminal and doesn't always take time to protect the rights of the person they are questioning. The courts sometimes found that a suspect brought to trial had been forced to say something he would not have said by his own free will. Many times this was not completely the fault of the police departments (at least the police didn't do it on purpose). There are several reasons for this.

People who are taken to the police station for questioning should know about the law and their rights. This is mainly because the law applies equally to every citizen and is published so that anyone can find out about them easily. Unfortunately, however, most people do not know either the law or their rights. Some police are afraid they will not be able to do their job as well, if they tell the suspect what his rights are. However, the courts have held that a person who is arrested must be informed of his rights by the police.

Letting Suspects Know Their Rights

Now, let's consider what these rights are. We already know that a person cannot be forced to confess to a crime. What happens, however, when the person

doesn't really know what he is saying? It is really very easy to become confused when you are in a strange place and are being interrogated by the police. The police know this and may take advantage of this confusion to obtain information. This person needs someone who knows the law as well as, if not better than, the police to help him during the questioning. The courts realize this and rule that every person can have a lawyer with him while he is being questioned. In fact, the courts add that everyone can have a lawyer if he wants one. Lawyers expect to be paid for their services. What about the poor person who can't afford to pay for one? The decision of the court would mean nothing to him. Because the law says that everyone should be treated equally, it was decided that if a person was poor and wanted the help of a lawyer, all he had to do was ask and one would be given to him. The lawyer's fees would be paid by the county or state.

All of these rights about being able to have a lawyer if you want one are fine in theory, but how are the people supposed to find out about this right? The law says that every time the police seek to question anyone they are supposed to tell him that he may have a lawyer with him. They are supposed to tell him this before they start asking any questions except his name. If the person then tells the police that he wants a lawyer, the police will have to tell the court to get one for him. Even more important, the police are not supposed to ask any more questions until the lawyer gets there and has had a chance to talk to the arrested person.

All of what we have been talking about applies to the person that the police bring to the station house to question. Do these same rules apply when they are questioning someone at any other place? To some extent they do. Let's see where and why the rules are different. Basically there are two kinds of questioning outside the station. We have already discussed the kind of questioning that occurs when the police go to someone's house to investigate a crime. The person being questioned does not have to answer any of the questions that the police ask. This person has the same rights as the person the police take to the station, with one exception. This person does have the right to have a lawyer with him during the questioning but he has no right to have the court appoint one for him. If he cannot afford to pay the lawyer, he is out of luck. The type of questioning outside the station is different, and requires different rules.

Questioning People On the Street:
Stop and Frisk

This different type of questioning is generally the result of the police seeing something suspicious or seeing a person act that way. The police have a duty to prevent crime. Because of this duty, they also have a right to stop a person on the street and ask him what he is doing. This kind of questioning has some special rules that apply to it. When a police stops someone, he never really knows what is going to happen to him or what he is going to find. The person who is stopped may be carrying a gun and be dangerous. The laws protect the rights of the person being questioned and still protect the policeman from being hurt. To do this the legislature passed a "STOP AND FRISK" LAW. According to this law, if the police have a good reason to stop a person for questioning (that is, if they suspect he has committed or is committing a crime or is about to commit one), they are allowed to frisk or search the person for hidden weapons. They are allowed to do this without a warrant.

Stopping and Searching A Car

If the person that the police stop is in an automobile, they can also search the car without a warrant. This does not mean that they can tear the car apart while they are doing it; but, they can give it a general going over. There is a special reason why the police are allowed to search a car without a warrant. It is because a car doesn't have to stay in the same place all the time. If the police thought that a crime was being committed with or in a particular car, by the time they had obtained a warrant, the driver and his car could easily vanish. Getting a warrant in such a case would be useless. Of course, if the police find any clues to a crime at all either on the person or in the car, these clues will help to prove the person guilty later on. This is true even if the clues the police find are related to a different crime than the one which they originally suspected. This is an important difference from the type of situation where a search warrant is necessary and is an important point to think about. Unfortunately, the police sometimes stop a car for a minor offense so that they can search the car or persons in it on the chance they may find something illegal. Many young people with long hair today have found this to be the case.

The Relationship Between A Warrant And the Evidence Sought

When you get a warrant to search a building, you must cite your reasons for wanting it and specify just what you will be looking for. Once you get the warrant you can search only for the object or person specifically identified in the document. For example, let's go back to our jewelry store theft. The warrant would specifically state "stolen jewelry." Suppose, however, when you were searching you did not find any of the stolen jewelry but you did find some other suspicious items. Would you then be able to take them as evidence of a crime? It depends on the nature of the objects not mentioned in the warrant. Some items are contraband and illegal to possess such as narcotics and gambling equipment. These items could be legally seized by the police, although not described in the warrant.

Arrests and Restrictions on Personal Freedom

Now that we have considered how the police go about finding clues to a crime, we have to find out what they do with this information. The clues tell the police who committed the crime. Once they find out who the person is they will attempt to arrest him. Arrest, however, includes more than just finding someone and bringing him to the police station. To be arrested means that you are unable to move about of your own free will and are restricted to those types of movements which the police allow. Of course, this doesn't mean that when you are arrested you suddenly lose the ability to wiggle your fingers or toes; but, simply that you can wiggle them only if the police say it is O.K. The important point to remember is that you lose a certain amount of freedom. This freedom that you lose is one of the main points we have been discussing all along. The law will protect your right to that freedom as long as you do not abuse that right. Now, let's see just what all of this means. For example, you have the right to walk down the street any time you wish. However, you do not have the right to walk across someone else's property without his permission. If you cross his yard without permission, he can do something to stop you. He has two choices of action. He can either stop you himself, which could lead to a fight between the two of you, or he could call the police. If he calls the police, they will arrest you. You may not want to go with them because being arrested is not very pleasant. Also, if the people who came to get you were just ordinary neighbors of the persons whose yard you crossed, you wouldn't have to go with them at all.

But, the police are not just ordinary neighbors. They are special people whose job it is to see that the rights of all the people are protected.

To do this job the law gives the police certain powers that other people do not have. They have a right to stop you physically from crossing your neighbor's yard. In other words, they can restrain you so that you won't be able to move where you want to go. When they do this, you are under arrest. Arrest may not have to be for a long time. In this case it probably would last until you promised not to cross your neighbor's yard and stopped trying to do so. This, however, is not the only type of arrest that the police can make. What do they do with people like the one who broke into the jewelry store? This person has to answer the charges made against him by the owner of the jewelry store. What do the police do now? Of course, they have to find him and then take him "into custody." This means that when they find him they have to take him along with them. He is to be in their care. If it is necessary, they can use force to take him along just as they used force to stop you from crossing your neighbor's yard without permission. Most of the time, however, the person for whom they are looking will not fight with them and will go along quietly. He allows himself to be taken to the police station. And, he is still under arrest even though the police did not have to use force to do it. Now, if we look back we will see that arrest means that the police have taken someone into custody or care.

What Happens After Arrest?

Now that we have seen the police arrest someone, we have to ask ourselves why they do it. We can all say that they arrested him because he committed a crime, but is that enough? What good does arresting someone do? First of all, if the police arrest someone suspected of committing a crime, they can bring him into the courts where he will have to answer the charges made against him. Secondly, if the police have this person in their care and in jail, they can be sure that he won't do the same thing again. There are, however, several things involved in keeping a man in jail after he is arrested. The first of these is the idea that a man is innocent until he is proven guilty. This means that he has to have a trial to see if he really did commit a crime. If this person is innocent, then keeping him in jail, even if it is only until his trial, is punishing him for something he didn't do. How is the person going to prove that he is innocent if he is in jail and can't prepare a defense to the charges?

Bail

The law has answered this question by providing a way for the person to be out of jail until the time for his trial. The main purpose for keeping him in jail at all is to make sure that he shows up in court. If, however, the person who is accused of committing the crime can give assurance that he will not disappear if allowed out of jail, he will be released. Generally, there must be something that will make it worth his while to stick around. In other words, he has to put out some money to go free. When he does, he is said to be out on bail.

What does it mean to be "out on bail?" Where does the bail money go? If the person is really innocent, does he ever get it back? Are all people who are accused of committing a crime let out of jail by paying bail? These are just a few of the questions that come to mind. First of all, where does the money go? The money goes to the courts to help pay the costs of the trial. However, the money is not spent immediately. Instead, it is put in a safe until the time for trial comes. If the person does not show up, he loses his money and the police have to look for him again. If, on the other hand, the person does show up in court and is found to be innocent, he gets his money back. If found guilty and fined, the bail money on deposit is applied to the fine. Is everyone given a chance to get out on bail? The answer is no. There are certain instances where it will not be allowed. For example, if a person is accused of murder, it is in the judge's discretion to determine the eligibility of the person for bail.

Whether a particular person will be allowed out on bail depends on many things. First of all, it depends on what he is accused of doing. It seems reasonable that this should be the case. After all, if a person is taken to jail for crossing his neighbor's yard without permission, do you think he should be as closely guarded as another man who is arrested for murder? What this means is that the more serious the crime, the higher the amount set for bail. In some cases, bail will be denied the accused. The seriousness of the crime, however, is not the only thing that decides whether a man will be let out on bail. What else would you think about? Maybe you would want to know how many times this person had been in trouble before. Perhaps you would also like to know whether the person has a family to support and a steady job which he might lose if he were kept in jail. These and other factors have to be considered, not only as to whether or not the person will get out, but also as to how much his bail will be. Let's apply some of these facts to people in jail. Suppose that the

fellow who likes to take a short-cut across his neighbor's yard is asking to be let out on bail. First of all, you know that what he did is not very serious. Now, if you check to see if he has been in trouble before, you may find that this is the first time. He has a family and a steady job. There really isn't much chance that he wouldn't show up in court for his trial. He has a good chance to get out; but how much should he pay?

A man should have to pay only as much money to get out on bail as will make him show up for trial. The Constitution does not say that everyone has a right to get out on bail but only that if bail is allowed, the amount he must pay "shall not be excessive." Excessive means too much. What is too much depends on all the facts in a case. Our not too obedient friend shouldn't have to pay too much because of the facts in his case. Let's say he has to pay $25.00, but he doesn't have that much money. Should he be forced to stay in jail? Many times the courts have said that he doesn't have to. His record is good, and they take his word that he will show up.

Now, what about the fellow accused in the jewelry store case? Suppose he has been in a lot of trouble before and he has no steady job. What will you do about letting him out of jail? What will he have to pay? If you decide to let him out of jail and he doesn't have all of the money he needs, do you let him pay part of it? Generally, a person can get out on bail if he pays a deposit of part of the amount set for him. Therefore, if our man has only a part of the money, he can still get out.

Beginning of Prosecution

We have discussed what happens to a person once he is arrested; but, let's consider how the police made the arrest in the first place. What do the police do when they know who they want and they don't have him? Is it all right for them to go up to a person on the street and say, "We want you, buddy."

Yes, they can. A policeman may arrest a person if he has reason to believe that the person either has committed or is committing a crime. We have already met the idea of a warrant in our discussion of searches. Is a warrant for an arrest the same as a search warrant? Basically, it is. There are, however, two ways to get an arrest warrant whereas there is generally only one way to get a search warrant.

When the police think they have all the clues they need, they have a choice of

which way they want to go. If the clues point to only one or two people, the police can type out their reasons on a sheet of paper and take it to the judge in the same way they did for the search warrant. In a case that is less clear, they may want to submit the clues to a grand jury.

The Grand Jury and Indictment

A grand jury is a group of people picked to hear the facts in a case where a person has been accused of committing a felony and to decide whether he should be tried for it. (A felony is a crime punishable by more than one year in jail; a misdemeanor, one punishable by a sentence of one year or less.) First, they must decide if the facts show that a crime has indeed been committed. Second, they have to decide from these same facts whether any of the people that the police suspect were involved in that crime. If the grand jury feels that these suspects were involved, then it is up to them to declare that they should be prosecuted. This is when they return an indictment. Therefore, we can say that the main job of the grand jury is to decide if there really was a crime committed, if there is substantial evidence to demonstrate that the suspects held actually committed it, and if they should be put on trial.

A hearing before a grand jury is not a trial. The only facts that are heard are those presented by the state through the state's attorney. The suspects do not appear at the hearing, which is not open to the public. The proceedings of the meeting are completely secret. Once the grand jury has made its decision to accuse someone if the person is still free, the police can obtain a warrant for his arrest.

Differences Between An Arrest and Search Warrant

There are other differences between an arrest warrant and a search warrant. First, a search warrant is good for only 96 hours. An arrest warrant, however, has no time limit on it. Second, a search warrant does not allow the police to break into a building merely if they feel like it. With an arrest warrant the police can use any amount of force necessary to make the arrest. For instance if the suspect is hiding in an apartment building, the police may enter or break into the building without the owner's permission.

The Preliminary Hearing

A preliminary hearing is the first hearing of the facts of a case by a judge. The judge hears the reasons that the police give for arresting the individual. At the hearing the judge decides if there are reasonable grounds to believe that a crime occurred and if there is reasonable cause to believe that the arrested person may have committed the crime. At this point a big difference between the preliminary hearing and the grand jury comes to light. If you will remember, we said that at a grand jury hearing, suspects have no chance to defend themselves. At the preliminary hearing the suspect is given the opportunity to defend himself against the charges.

At this early stage the judge does not decide the guilt or innocence of the person arrested. If he finds probable cause to believe that the defendant committed the crime, he "holds the defendant over to the grand jury." It then becomes the duty of the grand jury to decide whether it wants to indict or charge the defendant with the crime. The formal charge, however, is not enough evidence to show that the defendant has definitely committed the crime. Of course, the Grand Jury in ascertaining the facts may override the decision reached by the judge at the preliminary hearing and decide not to indict the defendant. Although this doesn't often happen, the Grand Jury does have this power.

The Arraignment

After the defendant is indicted, that is, charged with a crime by the Grand Jury, he has to stand trial for that offense. An arraignment then occurs. At the arraignment the actual charges against the accused are read to him, and the defendant or the accused pleads or answers "guilty" or "not guilty." If he pleads guilty, the judge then determines what the punishment should be. If the defendant pleads not guilty, the case is then set for trial.

The Trial

A trial, then, is the next step in the process. Perhaps some of you have seen how a trial works from television. A trial is a hearing to see whether one is guilty of violating the law. The problem of fairness in a trial is very important. Everyone has a right to a fair and speedy trial. This right is protected by the Sixth Amendment to the Constitution, the same amendment which tells that each person

has a right to know the exact charges brought against him. A fair trial involves a hearing before a neutral and impartial trier of facts who is not associated with the defendant or victim.

The Jury

The Sixth Amendment gives everyone the right to a trial by jury. This right, however, may be waived or given up if the defendant desires that the judge alone hear his case. If the defendant wishes a trial by jury, then a group of twelve persons is picked to hear his case because they are his fellow peers or citizens.

The Right to Counsel

Even when the people on the jury are your equals and have no special knowledge to help them, the legal problems that come up in a trial are so many and so great that a person need a lawyer to help him. The Constitution says that each person is allowed to have a lawyer. However, there as, at the time the Constitution was written, no way for a poor man to have a lawyer if he couldn't afford to pay one. This meant that a person who could afford a lawyer would have a better chance at his trial than a poor man who couldn't get a lawyer. Eventually the courts realized that poor men were being prejudiced by the absence of an attorney who could defend him. They still weren't too charitable to him, however; but they did see to it that he could have a lawyer if he were in danger of losing his life. This meant that the cour would appoint a lawyer only in trials for murder. Any poor person who was charged with a lesser crime was out of luck. This rule, that a poor man couldn't have a lawyer appointed for him unless he was charged with murder, stayed around for a long time. It wasn't until fairly recently that the courts changed this situation. The trial became so complicated that a poor man didn't have a chance without a lawyer. Now, all a person has to do is prove to the court that he cannot afford to pay a lawyer and the court will appoint one for him. This change was made about the same time that the court realized just how important the lawyer is at all the stages of the criminal process.

Now that we have a lawyer, let's see what he does. One of the first things he does is question the people who might be on the jury. The lawyer does this to make sure that the jury will be fair and impartial to the person he is serving. After he approves the people on the jury, he will state the basic facts of his case to the jury.

The lawyer for the state (the District Attorney) will also tell the facts that he has. Once the trial starts each side will bring in witnesses. They are called witnesses for the defense and witnesses for the prosecution. A witness for the defense will be subpoenaed by the defense lawyer, because he hopes the witness will help to acquit his client. He will question the witness after he is finished; the District Attorney has the right to cross-examine the defense witness. This means that he may ask his own questions of the witness. This same principle holds true for a witness for the prosecution. The District Attorney brings in this witness as a means to convict the accused. The defense lawyer also has the opportunity to cross-examine the prosecution's witness. When that is done, the judge explains the law to the jury and tells them that to find the person guilty the prosecution must prove the defendant guilty beyond a reasonable doubt. If it does not, he will go free. If the defendant is found not guilty, the state cannot appeal.

The Appeal

The jury then goes into a private room to discuss the case and to come to a very important decision. When they have made their decision they return to the court to tell the judge their verdict. If the decision is guilty and the accused doesn't think he had a fair trial, he can appeal the decision of the trial court to a higher or Appellate Court. Of course, he cannot get a whole new trial at this point. He can, however, ask another higher court to review the trial. This process is called making an appeal.

To do this, the person needs a written copy of everything that was said at the trial. If he cannot afford to pay for this copy, or transcript as it is called, the court will order that he be given a copy free of charge. The person or his lawyer then takes this transcript and sends it along with his questions to the higher or Appellate Court. If the court of appeals decides in favor of the accused, it can order a whole new trial or reverse the original ruling, setting the accused free.

JUVENILE LAW

The law does not apply the same standards to every member in a society. The law recognizes, for instance, that a physically or mentally ill person cannot necessarily follow the law in the same way a healthy person can. The law also applies different standards to juveniles than it does to the adult members of a society.

Juveniles

You may be asking why juveniles are treated differently from adults. For one thing, they are younger. Because juveniles are younger, they have had less time to learn and understand the meaning behind various laws. Consequently, their knowledge of rules and laws is in many cases not as mature as that of adults.

Since juveniles are placed in a special category, their behavior is judged by different standards. This is not to say that adult society establishes separate and different laws by which they judge adolescent behavior. Not at all. The laws of our society are for everyone and must be respected by juveniles as well as adults. However, a juvenile who breaks a law cannot and should not be judged as harshly as an adult offender.

This does not mean the laws neglect a juvenile's behavior or that officials will not reprimand a juvenile if necessary. However, it means that special procedures have been set up to deal with the juvenile's behavior, because a youngster without a knowledge of the laws may be more likely to act upon impulse, not stopping to consider the consequences of his actions. For instance, if Billy hits Johnny, Johnny's first impulse would be to protect himself from Billy. But he may get so angry at Billy that he may "over-react" and beat Billy up severely.

Juvenile Delinquency

How does the law distinguish between a youngster that is just inquisitive and high-spirited and one who is actually a delinquent? The process by which a juvenile becomes a delinquent is very complicated. The important point to remember is that delinquency is the direct result of behavior for which adults would be punished as criminals. But because juveniles may be acting unlawfully without having truly bad intentions, the law will consider them delinquents and not criminals. A delinquent is therefore a juvenile (male, under age 17, and female, under age 18) who has

broken a law and has been legally found guilty of it. It is a legal result that leads to other serious consequences. In order to deal with delinquent behavior separately from adult criminal behavior, the law has established juvenile courts. Let's now examine what kinds of behavior cause delinquency, as opposed to those which do not.

Non-Criminal Truancy

For example, let's take playing hookey. Suppose you decide not to go to school for one day. Maybe you'd like to go to the ball game. While you shouldn't skip school, even for just one day, it's tempting to try it. But, what happens when you begin to make a habit of it? The school takes attendance every day and sends an absence record in to the school administration. If there doesn't appear to be a good reason for your absence, the school administrators call the truant officer. The truant officer is a man whose job it is to find students who play hookey. He calls your home, checks the parks and other places like that. If he finds you, he may return you to the school. The school may refer the "hookey player" to a teacher or guidance counselor. However, if the truant officer finds he is tracing a chronic "hookey player," he will probably decide that juvenile court should deal directly with you. The truant officer then will call the policy youth division (which will be discussed later) and ask them to pick you up and to hold you at the Detention Home. Then the truant officer writes a formal request to the Family Court, asking that they discipline you for continually missing school. This request is called a delinquency petition.

When this delinquency petition comes to the court, it is given to a social worker whose job it is to investigate the case and get a clear picture of the entire situation. The social worker talks to your teacher and the principal of your school to see if you have been in any other trouble besides skipping school. He also checks with your parent(s) or guardian to find out if there is some problem which might cause you to be continuously absent. After he has done all of this checking, the social worker goes over all the information that he has gathered to see if there is sufficient reason for the Family Court to hold a hearing. If there is enough reason the social worker sets a date for you and your parent(s), or guardian, to come to court and turns over all of his information to the court clerk so that the judge will have all the material he needs.

If there isn't enough reason to hold a hearing, the truant officer's request is

denied and the child is released with a warning that if he skips school again a hearing will definitely be held. There is no further action taken at that time but a record of the request is put on file at the police department, in the offices of the court, and in the state office for juvenile delinquency information.

Criminal Delinquency

More serious is the situation which occurs when a child breaks one of the criminal laws. This type of activity can be divided into two categories--crimes against a person, such as fighting, shooting, stabbing, etc., and crimes against property, such as theft and vandalism. There is only one instance where a juvenile would generally be considered a criminal in the adult sense rather than a delinquent. That is when he is charged with committing a murder. All other criminal offenses, if proved, will result in delinquency. Of course, what happens to you depends on what you do in the first place. For example, say you and your friends are standing around the school yard after school. One of the kids gets rough and a fight starts. The next thing you know someone has a blade and another kid gets cut. You all scatter. Someone calls the police. That evening the police come to your home and arrest you.

The Arrest

When the police arrest someone it means that they take physical control over him so that the person does not have the freedom to go wherever he pleases. When a person is arrested, the police and everyone else can feel sure that nobody who may be involved in the situation will disappear until the entire problem is investigated and the guilty one punished.

But, now let's get back to you. What happens to you when you are arrested? The police officer is at your front door and is asking for you. You now have a choice to make--you can go with him in a peaceful fashion or you can resist being arrested. What happens to you if you resist? The police officer has the right to make you go with him and can use physical force if he has to. In fact, he can be as rough as he thinks he needs to be. If you give him a hard time, he will have to use force. This does not help you in any way.

This right to use force is important because it reflects the way the people as a group feel about protecting their needs. However, a real problem develops when

the police, who are the only ones allowed to use force in most cases, are pushed too hard. After all, a police officer is still a man who is part of the group that he serves. He may not agree with all the rules he has to obey and uphold. He has his own feelings, likes, and dislikes; and, sometimes, he follows these in spite of himself. When this happens the policeman may not use his power in the proper way.

How does this affect you? There are many policemen who believe that juveniles who break one of the criminal laws should be punished as if they were adults (that is unless the child is really young, like a first grader). However, as we said earlier, most people don't feel that way. Because the majority of the people believe that young people really are different, they have set up different procedures and these include a separate set of policemen. These policemen are called juvenile officers. While it is true that the juvenile officer is still part of the regular police force, he has special training for his job and a special interest in young people and their problems.

The Juvenile Officer

Basically, the juvenile officer's job is very similar to that of the regular policeman. He has to explain to the person he arrests what his rights are. He explains carefully that the youth doesn't have to answer any of the questions that will be asked and that the youth may have his lawyer with him at all times to help with the problem. If the youth comes from a poor family and cannot afford a lawyer, he tells this to the policeman, who should arrange for the court to appoint one for him. The officer also makes sure that the youth understands that if he wishes to answer any questions, any answer could be used against him in court.

Generally, if the youth who has been arrested is younger than high school age, the juvenile officer will wait to explain these rights to the child's parents. If, however, the youth is older, the officer can be fairly sure that the boy will understand what is said to him and he doesn't wait for the parents to arrive. In either case, one of the first things a juvenile officer does is call the parents to tell them where their child is and why he is there. The parents are asked to come to the station. If the parents are home when a youth is picked up, then the parents are asked to accompany the police and youth to the station. The juvenile does not personally make the call; the police place it and do the talking.

Investigation

Both the juvenile officer and the regular policeman must go over all the circumstances of the case to see if the person who has been arrested is really the guilty one. Let's get back to the case of the fight. You weren't doing the fighting and you didn't have a blade with you when you were arrested. It's the duty of the juvenile officer to find this out. In your case, the law will not punish you for breaking a criminal law. However, there is another problem facing you.

The juvenile officer protects the people by upholding the criminal law. Therefore, the juvenile officer has the responsibility of saying which activities are lawful and which are unlawful. Being part of a group that fights and one in which another person gets stabbed is definitely not something that a child who respects the law would do. This is important to the officer.

The officer explains to you and your parents that, although you are not guilty of committing a crime, you are likely to get into trouble if you continue hanging around with this group of companions. Because of this, the juvenile officer wants to keep track of you and make sure that you stay out of any further trouble. You can go home but you have to stop at the police station once a week for a few months and see the juvenile officer. If, during this time you do not get into any trouble, you will no longer have to go over to the station. This is a form of unofficial probation so that the juvenile officer takes over the job of a third parent in guiding and helping you.

Detention

Unofficial probation is fine for a child who is not in serious trouble, but what happens to one who is really in a jam? What happens to the person who actually did the stabbing in the school yard? The police have asked you questions about the incident, and they know the person who did it. He will be arrested just as you were but he will have to be held in the detention home rather than be allowed to go home with his parents. The purpose of detention is similar to that of arrest in that the police will be sure that the youth who is charged with the violation will be available during the time of the investigation and that he will show up for his court hearing. Once the person is in the detention home, the police also know that he will not be able to get into any more trouble.

After he gets to the home the same thing happens to the youth accused of stabbing as happens to the one who plays hookey. A social worker investigates the case to find out what the problem is. The morning after the youth is taken to the home, the social worker holds a meeting called a detention hearing. This is basically the same thing that heppens to other youths but since this is a very serious matter there are many more factors which have to be considered. For example, things will be easier if one hasn't been in trouble before. It will also help if he didn't start the fight. Of course, in a situation such as this, these factors will only help the court to decide what to do with the youth. They will not keep him out of court entirely. A date will be set for coming to court, and the youth and his parents are notified of it.

A Delinquency Petition

This is a petition prepared by the juvenile officer or the State's Attorney, which specifies what criminal acts the juvenile did. It is on the basis of this document that the court will decide if the juvenile is to be called a delinquent or not.

Now comes the hard part. If there is enough reason to hold the youth at the time of the detention hearing, why bother with a court appearance? First, let's discuss some of the differences between detaining a person and holding a court hearing. The determining factors are called evidence. The evidence that the social worker collects is very general in that it shows only that the law was broken and that, of all of the people involved in the situation, the person who was arrested seems to be the one most likely to have committed the crime. However, at the court hearing such general evidence is not enough. There must be proof that the person arrested was, in fact, the very person who broke the law. If there is the slightest doubt in anyone's mind, the person would be released immediately. In the case of the stabbing, some examples of the kind of general evidence that the social worker would collect might be: (1) information that the person who was arrested knew the other people involved in the fight very well, (2) that this person had not been at home at the time of the fight, (3) that he had been in other trouble of a similar nature, and (4) that he had been angry with the person who had been stabbed.

On the other hand, in order to establish the undeniable guilt of the youth, it is not enough to say that the person accused knew these others very well or that he was not at home at the time of the fight. The evidence must show that he was with these people in the school yard at the time the fight took place. It is also not enough to

show that the accused was angry with the victim of the fight but it must be proved that the accused was actually involved in the fighting and was the one who used the knife.

The Court Hearing

How does the law determine the evidence and where does it come from? This is the purpose of the court hearing. On the date that the social worker set for them, the accused, along with his parents and his lawyer come to Family Court. Usually there will be five people in the courtroom: (1) the judge, (2) a court reporter or secretary who takes down all that is said, (3) a bailiff or guard, (4) a lawyer from the state's attorney's office who will present the evidence against the accused, and (5) the juvenile officer who handled the arrest. The state will present its evidence first and the lawyer for the youth will answer in defense of the accusations. Both sides will ask questions. It is through the questions and the answers to them that the truth about the situation is determined. At the end of all of this questioning the judge considers all of the facts presented and laws involved and decides what the truth is. If he decides that the evidence doesn't show that the accused was guilty of stabbing, then he is released and is free to go home.

If, however, the evidence shows that the accused is actually guilty, then the judge must decide what to do about it. This is where some of the information gathered by the social worker becomes especially important. The judge wants to know the youth's background--prior instances of trouble, his school record, attendance, grades, general attitude, home environment, and many other factors. These are important for an obvious reason--the youth with the better record, for instance, may get a break. If this is the first time that the youth has been in this kind of trouble, he'll have that in his favor. All of these factors act as though they were on a scale. If they lean in one direction or the other, the kind and degree of punishment leans in that direction too.

If a juvenile gets into trouble and this is his first major offense, the Juvenile Court will, in most cases, sentence him to a light punishment. This course of action is usually taken because the Court realizes that it is possible for juveniles to break a law without them actually becoming delinquents. Young people, acting upon impulses, may occasionally shoplift or joy-ride in a stolen car. If their activities

are effectively discouraged early enough, these same youths have a good chance of "going straight."

At the other end of the scale, are the youths who don't care about anything, except themselves. The lives of people, or someone else's property they have never learned to respect. These people who consistently break the law and get into serious trouble will find their punishment much harsher--detention home, and in some cases, even prison.

Earlier in the discussion we mentioned how the juvenile officer provided an informal type of probation in order to help a youth stay out of trouble. (1) Official probation, the way the courts handle it, is very similar to this. If a youth is guilty of breaking a law but he has never been in trouble before; and the judge thinks there is a good chance that he will not get into trouble again, probation will be ordered. This means that the judge will give the youth a definite length of time during which his behavior will be observed. This is done by assigning the youth to a probation officer whom he will see at regular intervals. If, during this time, the youth really shows that he is sincere in his desire to reform, the Court will bend over backwards to give him a new chance. If, however, he gets into trouble again while he is on probation, the Court would have no choice but to revoke his probation and he will be brought back to Court for additional disciplinary action.

(2) At the other end of the scale is the harshest kind of punishment: a sentence to the state training school. This type of punishment is given where the offense is very serious or the youth has been in a lot of trouble. The judge will give a specific length of time for the punishment to continue but will not say where this is to be spent. Instead, he will send the youth down to Joliet to the Diagnostic Center. This center does not send young people to just one school but rather works for all the different schools that the state has. A youth will generally stay at Joliet for about two weeks. During this time he will be given a whole series of tests to see how he behaves and what he knows. After the tests are completed, the staff at the center holds a hearing similar to that of the social worker and the pre-trial detention hearing. This hearing decides where the youth will be sent for the rest of his sentence and basically what he will do during this period. For example, the staff at the center could decide that the boy sent in for knife-stabbing should be sent to St. Charles, the maximum security training school for boys, and that he should be

placed in a mechanical and shop training course rather than a regular school program. This, however, is as far as the staff's planning goes. All other decisions about the boy would have to be made at St. Charles.

The boy we're following won't be the only one going to St. Charles. The center sends them in groups. When the bus arrives at the school the boys begin a long day of what is called orientation. Bunks are assigned by age, clothes are passed out, marked and stashed. Rules are explained and classes and chores are assigned. The daily routine will be the same every day that the boys are there unless they get into trouble. If a boy works well, does not break any of the rules he can help himself to get out even before his sentence may be up. This is accomplished through what is called the good behavior system. For each day the youth doesn't get into trouble he receives a certain amount of time off. If he accumulates enough of this time off he can get out early. He will also receive extra privileges while he's there. However, one serious violation of a school rule can wipe out all the time that a boy accumulates.

(3) Probation and training school sentences are not the only options that the law has. There can also be any combination of them so that a person may receive different types of punishment for the same offense. Suppose our boy had not been in trouble before but the judge still didn't think he could stay out of trouble by himself. In such a situation the boy might be sent to the minimum security honor farm at Kankakee for a short time; and then, at the end of that time, he might have to go on probation. There is no form of parole for youths.

(4) Everything that's been discussed until now has been about juveniles who have never been in such serious trouble that it was necessary to send them to detention schools. What happens to the kid who's been there before and gets into trouble again? Until a boy is over the age of sixteen he won't be sent to the state penitentiary. If he continually gets into trouble, he is returned again to the training school. However, once he reaches sixteen and he gets into trouble again, the judge can find that stronger punishment is necessary and that the Family Court can't do the job. He then certifies or swears that the youth is no longer under the care of his court and the adult criminal court takes over the case. The boy is then treated as a regular criminal and is liable to be punished in any way that adults can be punished. There is no more special treatment.

Society's needs have changed and so has the way they express them, and that youth has lost his chance to be rehabilitated and avoid the bad effects of being called a criminal. These effects will remain attached to him all of his life, and he will always regret that he did not change for the better when he had a chance.

Conclusion

The juvenile system is intended to rehabilitate rather than punish youths. It is a fair system that gives them extra consideration that an adult would not get. Although ours is not a perfect system, we can work to change it through legal procedures. If we are totally negative in our approach, criminal institutions may become more repressive than ever. Perhaps a day would come when in the face of increasing violence, youth would be deprived of the possibility of a second chance. Since government is a precious and fragile thing, it is important for us to act responsibly in our efforts to improve it.